

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ABSOLUTE BUSINESS SOLUTIONS, INC.,

Plaintiff,

vs.

MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC. et al.,

Defendants.

2:15-cv-01325-RJC-NJK

ORDER

This case arises out of a homeowners association foreclosure sale. Now pending before the Court is the unopposed Motion to Stay of Defendant/Counterclaimant Federal National Mortgage Association (“Fannie Mae”) and Intervenor/Counterclaimant Federal Housing Finance Agency (“FHFA”). (ECF No. 59).

On August 12, 2016, the Ninth Circuit issued its opinion in *Bourne Valley Court Trust v. Wells Fargo Bank, NA*, No. 15-15233, 2016 WL 4254983 (9th Cir. Aug. 12, 2016). The Court of Appeals held that the pre-2015 statutory notice procedures for HOA foreclosures under NRS Chapter 116 are facially unconstitutional under the Due Process Clause of the Fourteenth Amendment, based on the panel’s finding that the Nevada Legislature’s enactment of the relevant statutes sufficiently implicates state action without additional state involvement in a foreclosure sale itself. On August 15, 2016, the plaintiff/appellee in *Bourne Valley* filed in the Ninth Circuit an emergency motion to stay publication of the *Bourne Valley* opinion indicating

1 that a petition for rehearing is forthcoming. Fannie Mae and FHFA now move for a stay of all
2 proceedings pending issuance of the Ninth Circuit's mandate on such petition for rehearing.

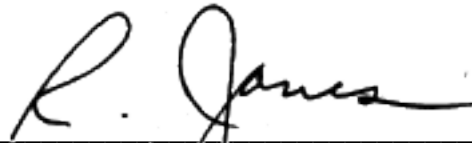
3 "[A] district court possesses the inherent power to control its docket and promote
4 efficient use of judicial resources." *See Dependable Highway Exp., Inc. v. Navigators Ins. Co.*,
5 498 F.3d 1059, 1066 (9th Cir. 2007). While there is a risk that the Court of Appeals' ultimate
6 decision in *Bourne Valley* will require duplicative work for the parties and the Court, this risk is
7 minimal. En banc rehearing is exceedingly rare, and the remote possibility that the Ninth Circuit
8 will overturn its *Bourne Valley* ruling is an insufficient basis for a stay of proceedings.

9 **CONCLUSION**

10 IT IS HEREBY ORDERED that the Motion to Stay (ECF No. 59) is DENIED.

11 IT IS SO ORDERED.

12 DATED: This 18th day of October, 2016.

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ROBERT C. JONES
United States District Judge